

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6152 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes.
2. To be referred to the Reporter or not? No.
3. Whether Their Lordships wish to see the fair copy of the judgement? No.
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No.
5. Whether it is to be circulated to the Civil Judge? No.

NACHETAN EDUCATION TRUST

Versus

STATE OF GUJARAT

Appearance:

MR BHARAT T RAO, Advocate, for Petitioners
MISS HARSHA DEVANI, ASSTT. GOVERNMENT PLEADER for
Respondent No. 1, 2, 3.

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 08/04/96

ORAL JUDGEMENT

Rule. Miss Harsha Devani, learned Asstt. Govt.
Pleader, waives service of notice of rule for the
respondents.

2. The petitioner trust is running a secondary school and it is receiving grant of 100%. The teachers working in the school are under direct payment scheme of the Government. The school applied for permission for opening the Vocational Higher Secondary Stream which has

been sanctioned by respondent no.2 in September 1993 and the permission was also granted for Std. XII in Higher Secondary Vocational Stream on 9-7-1991. However, the Institution has not been granted aid on the ground that they have not completed five years from the date of starting the classes of Std. XII. Mr. Rao, learned Advocate for the petitioner submits that this Court in Special Civil Application No.7244/89 has interpreted the Resolution of the Government and has taken the view that five years is to be computed from the date of starting higher secondary school and not from starting the classes.

3. Mr. B.T. Purohit, E.I. Dist. Education Office, has filed the affidavit on behalf of the respondent State, stating that the Resolution dated 7-5-1988 has been clarified by the Resolution dated 3-7-1995. The clarification has been made to the effect that any school which conducts the classes for Std. XI and/or XII for particular stream and if that school is registered for that stream only and if later on the other school desire to start the classes for other streams then it has to obtain registration in that regard and therefore they are to be considered as new schools for the purpose of grant/deposit.

4. The say of the respondents is that in view of the clarification, the date of commencement of the petitioner's school with respect to general stream will be the date on which classes in the general stream are commenced after obtaining registration for such stream. The clarification contained in the Resolution dated 3-7-1995 is contrary to the decision of this Court referred to above. The resolution dated 7-5-1988 has been interpreted by this court which is the land of law. It was not open for the State Government to interpret the Resolution in disregard to the law laid down by this Court. In view of this, the clarification issued by the State Government is required to be ignored and before any contempt proceedings are initiated, it is advisable for the State Government to withdraw the said Resolution. It is stated that the petitioner has made the application in the year 1994 for the grant and the same should be decided in accordance with law laid down by this Court in Special Civil Application No.7244 of 1989 decided on 28-12-1993.

5. This Special Civil Application is allowed and the respondents are directed to dispose of the petitioner's application for grant in accordance with law laid down by this court in Special Civil Application No.7244 of 1989

decided on 28-12-1993, within a period of six weeks from
the date of receipt of the writ. Rule, is made absolute.
No order as to costs.

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